

UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF NEW YORK

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BRIAN JOHNSTON and NILE CHARLES,

Plaintiffs,

v.

APPLE INC. and OMNISCIENT INVESTIGATION
CORPORATION,

Defendants.

1:11-cv-03321-JSR

NOTICE OF MOTION

**NOTICE OF MOTION TO DISMISS THE AMENDED COMPLAINT PURSUANT TO
FEDERAL RULE OF CIVIL PROCEDURE 12(B)(6) OR FOR JUDGMENT PURSUANT
TO FEDERAL RULE OF CIVIL PROCEDURE 12(D)**

PLEASE TAKE NOTICE, that upon all moving papers submitted in support of Apple Inc.'s June 2, 2011 Motion for Judgment Pursuant to Federal Rule of Civil Procedure 12(B)(6) and Rule 12(D); the June 10, 2011 Declaration of Thomas M. Crispi in Support of Apple Inc.'s Motion to Dismiss the Amended Complaint Pursuant to Federal Rule of Civil Procedure 12(b)(6) or for Judgment Pursuant to Federal Rule of Civil Procedure 12(d), and the exhibit attached thereto, Apple Inc. will move this Court in Courtroom 14B at the United States Courthouse, 500 Pearl Street, New York, New York, on June 28, 2011, at 4:00 P.M., for an Order pursuant to Federal Rule of Civil Procedure 12(b)(6) and Federal Rule of Civil Procedure 12(d), granting judgment to Apple Inc., and for such other and further relief as to this Court seems just and proper.

PLEASE TAKE FURTHER NOTICE that, pursuant to the Court's schedule and the consent of the parties, Plaintiffs' answering papers, if any, are due on June 15, 2011, and Apple Inc.'s reply papers, if any, are due on June 22, 2011.

Signature Block Appears on the Following Page

Dated: New York, New York
June 10, 2011

Respectfully submitted,

SCHIFF HARDIN LLP

/s/ Thomas M. Crispi

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